

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE BANK OF AMERICA CORP.
SECURITIES, DERIVATIVE, AND
EMPLOYMENT RETIREMENT INCOME
SECURITY ACT (ERISA) LITIGATION
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This document relates to:

DiNapoli, et al. v. Bank of America Corp., et al.,
No. 10 Civ. 5563; Graber v. Bank of America
Corp., et al. No. 11 Civ. 7070; Munoz, et al. v.
Merrill Lynch & Co., Inc., et al., No. 09 Civ.
10077; Schwab S&P 500 Index Fund, et al. v.
Bank of America Corp., et al., No. 11 Civ. 7779;
Stichting Pensioenfonds ABP, et al. v. Bank of
America Corp., et al., No. 10 Civ. 2284
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Master File
No. 09 MDL 2058 (PKC)

Related File Nos.
09 Civ. 10077 (PKC),
10 Civ. 2284 (PKC),
10 Civ. 5563 (PKC),
11 Civ. 7070 (PKC),
11 Civ. 7779 (PKC)

ECF CASE
~~FINAL~~
PROPOSED REVISED CIVIL
CASE MANAGEMENT PLAN
AND SCHEDULING ORDER

This Proposed Revised Civil Case Management Plan (the "Plan") is submitted by the parties to the following individual actions: *DiNapoli, et al. v. Bank of America Corp., et al.*, No. 10 Civ. 5563; *Graber v. Bank of America Corp., et al.*, No. 11 Civ. 7070; *Munoz, et al. v. Merrill Lynch & Co., Inc., et al.*, No. 09 Civ. 10077; *Schwab S&P 500 Index Fund, et al. v. Bank of America Corp., et al.*, No. 11 Civ. 7779; *Stichting Pensioenfonds ABP, et al. v. Bank of America Corp., et al.*, No. 10 Civ. 2284 (collectively, the "Individual Actions"). This order amends the previous scheduling order entered by this Court on May 30, 2012, and modified on June 29, 2012, July 20, 2012, September 25, 2012, and October 4, 2012.

1. The parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c).
2. Each Individual Action is to be tried to a jury.
3. Defendants agree to answer or otherwise respond to any Amended Complaints in the Individual Actions to which they have not already responded on or before June 3, 2013.
4. Expert discovery shall be completed by June 21, 2013.

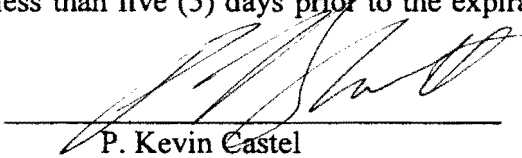
- a. Expert report(s) of the party with the burden of proof shall be served by April 5, 2013. The opposing party's expert report(s) shall be served by May 3, 2013. Rebuttal expert report(s) of the party with the burden of proof shall be served by May 22, 2013.
 - b. If a party relies on an expert named in the Consolidated Securities Action, and submits in an Individual Action report(s) submitted by the expert in the Consolidated Securities Action, then there shall be no additional deposition of that expert in such Individual Action with respect to such report(s).
 - c. Any deposition of the parties' experts shall be completed by June 21, 2013.
5. The parties are to conduct expert discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York.
6. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements, except that the following motions may be made without a pre-motion conference: (a) motions for summary judgment on the schedule set forth in paragraph 7 and (b) motions in limine on the schedule set forth in paragraph 8.
7. The pre-motion conference is waived for any summary judgment motions filed by the parties provided such motions are filed no later than July 3, 2013. Responses are due by August 7, 2013. Any replies are due by August 28, 2013.
8. The Final Pretrial Submission Date is forty-five (45) days following a decision on a summary judgment motion, assuming the action survives. By the Final Pretrial Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practices and Rule 26(a)(3), Fed. R. Civ. P. Any motions in limine shall be fully submitted by the Final Pretrial Submission Date and the pre-motion conference requirements are waived for any such motion. Proposed voir dire, jury instructions and verdict form shall also be filed by the final Pretrial Submission Date. Counsel are required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the joint submission. Jury instructions may not be submitted after the Final Pretrial Submission Date, unless they meet the standard of Rule 51(a)(2)(A), Fed. R. Civ. P.
9. The Case Management Conference currently scheduled for December 17, 2012 at 11:30 am is adjourned until June 7, 2013 at 11:00 am.
10. This Civil Case Management Plan and Scheduling Order applies to all Individual Actions, except, with respect to paragraphs 6(b) and 8, to *Schwab S&P 500 Index Fund, et al. v. Bank of America Corp., et al.*, No. 11 Civ. 7779.

TO BE COMPLETED BY THE COURT:

The Plan has been reviewed by the Court and, except as modified, is adopted as the Scheduling Order of this Court in accordance with Rule 16(b), Fed. R. Civ. P.

This ORDER may not be modified or the dates herein extended, except by further Order of this Court for good cause shown. Any application to modify or extend the dates herein (except as otherwise stated) shall be made by written application in accordance with paragraph 1(C) of the Court's Individual Practices and shall be made no less than five (5) days prior to the expiration of the date sought extended.

Dated: December 7, 2012
New York, New York



P. Kevin Castel
United States District Judge